

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

LEE ROY STALLMAN

Plaintiff,

-vs-

Case No. 22-12635-SFC-APP

Hon. Sean F. Cox

Mag. Anthony P. Patti

**OAKLAND COUNTY,
OAKLAND COUNTY SHERIFF
DEPUTY-DARIUS ZAJAC,**
Individually and/or in their Official Capacities,
Jointly and Severally,
**PRESENT AND FORMER
YET UNIDENTIFIED MEMBERS OF
OAKLAND COUNTY SHERIFF,**
Individually and/or in their Official Capacities,
Jointly and Severally,

Defendants.

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Solon M. Phillips (P65035)
Oakland County Corporation Counsel
Aaron C. Thomas (P55114)
Oakland County Deputy Corporation Counsel
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Sr. Assistant Oakland County Corporation Counsel
Attorney for Defendants Oakland County and
Oakland County Sheriff Deputy Darius Zajac
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ANSWER TO FIRST AMENDED COMPLAINT

Defendants, by and through their attorneys, submit the following Answer in response to Plaintiff's First Amended Complaint:

I. JURISDICTION

1. Defendants state that this paragraph calls for a legal conclusion to which no response is required.

II. VENUE

2. Defendants state that this paragraph calls for a legal conclusion to which no response is required.

III. PARTIES

3. Admitted.
4. Admitted that Oakland County is a county within the State of Michigan
5. Admitted Defendant Zajac is employed by Defendant Oakland County in the capacity of sheriff's deputy. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this paragraph.

IV. FACTS

6. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.
7. Admitted that Defendant Zajac met Plaintiff at Sweetland Transportation on October 31, 2019. Defendants lack knowledge or information to form a belief as to the truth of the remaining allegation in this paragraph.

8. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.
9. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.
10. Admitted that Defendant Zajac went inside Sweetland Transportation office.
Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this paragraph.
11. Admitted that Defendant Zajac informed Plaintiff that his final paycheck was sent to him. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this paragraph.
12. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.
13. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.
14. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.
15. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

16. Admitted that Defendant Zajac exited the business and stopped near Plaintiff.

Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegation in this paragraph.

17. Admitted Defendant Zajac exited his vehicle and approached Plaintiff.

Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this paragraph.

18. Denied as untrue.

19. Denied as untrue.

20. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

21. Denied as untrue.

22. Denied as untrue.

23. Denied as untrue.

24. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

25. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

26. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

27. Denied as untrue.

28. Denied as untrue.

29. The contents of this paragraph are admitted. Defendants do not answer the footnote as it calls for a legal conclusion to which no response is required.

30. Denied as untrue.

31. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

32. Defendants deny as untrue the allegations contained in this paragraph in the manner and form alleged.

33. Admit that *People of the State of Michigan v. Lee Roy Stallman*, Oakland County Circuit Court Docket No. 2019-272944-FH was dismissed with prejudice. Deny that an order was entered on December 9, 2021.

V. CAUSES OF ACTION

A. FIRST CAUSE OF ACTION

34. Defendants incorporate by reference their answers in the preceding paragraphs as if fully set forth herein.

35. Denied as untrue.

B. SECOND CAUSE OF ACTION

36. Defendants incorporate by reference their answers in the preceding paragraphs as if fully set forth herein.

37. Denied as untrue.

C. THIRD CAUSE OF ACTION

38. Defendants incorporate by reference their answers in the preceding paragraphs as if fully set forth herein.

39. Denied as untrue.

D. FOURTH CAUSE OF ACTION

40. Defendants incorporate by reference their answers in the preceding paragraphs as if fully set forth herein.

41. Denied as untrue.

42. Denied as untrue.

WHEREFORE Defendant respectfully request that this Court enter judgment in DISMISS Plaintiff's First Amended Complaint with prejudice and award any other, further relief that it finds to be fair, just, and equitable under the circumstances.

Respectfully Submitted:

/s/ Kyle Heika

Kyle Heika (P78833)
Oakland County Assistant Corporation Counsel
Attorney for Defendants
1200 North Telegraph Road, Bldg. 14E
Pontiac, Michigan 48341
(248) 858-4097
heikak@oakgov.com

Dated: 4/5/2023

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AFFIRMATIVE & OTHER DEFENSES

Defendants Oakland County and Deputy Darius Zajac, by and through the undersigned counsel hereby state as follows for his affirmative defenses:

1. Plaintiff has failed to state a claim against one or more Defendants, upon which relief can be granted.
2. Plaintiff's claims may be barred in whole, or in part, by the applicable statute of limitations.
3. Plaintiff has failed to mitigate his damages.
4. Defendant is entitled to governmental immunity and/or absolute immunity to the extent they apply to any claim pled by Plaintiff.
5. Plaintiff has failed to allege a deprivation of his constitutional rights.
6. Defendant acted in good faith and his actions were lawful, objectively reasonable, and in compliance with all applicable local, state and/or federal laws.
7. Plaintiff is barred from maintaining this action by the doctrine(s) of laches, waiver, estoppel, res judicata, the wrongful conduct rule/doctrine, or the doctrine of unclean hands.
8. Defendants object to Plaintiff's failure to join all claims and/or parties.
9. Plaintiff's claims under federal law are barred by the application of qualified immunity or other immunity provided by federal law.
11. Plaintiff's injuries, if any, are the result of the comparative negligence or wrongful acts of Plaintiff.

12. Plaintiff's injuries, if any are the result of Plaintiff's own actions or the actions of persons other than the Defendants named in this case.

13. Defendant's actions were not "the" proximate cause of any injury.

14. Plaintiff's damages are the result of an intervening or superseding cause.

15. Plaintiff's claims are barred in whole or in part by a release.

16. Plaintiff's claims do not rise to the level of constitutional violations cognizable under the Eighth and/or Fourteenth Amendments or under 42 U.S.C. §1983.

17. Defendants did not violate any clearly established Constitutional rights of Plaintiff,

18. Defendant reserves the right to add or amend these Affirmative & Other Defenses as more facts become known through discovery.

Respectfully Submitted:

/s/ Kyle Heika

Kyle Heika (P78833)
Oakland County Assistant Corporation Counsel
Attorney for Defendant
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RELIANCE UPON JURY DEMAND

The Defendants rely upon Plaintiff's demand for a jury trial on all issues triable by jury.

Respectfully Submitted:

/s/ Kyle Heika

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Attorney for Defendant
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Dated: 4/5/2023

CERTIFICATE OF SERVICE

I hereby certify that on 4/5/2023, I electronically filed the foregoing document (Answer, Affirmative & Other Defenses, and Reliance Upon Jury Demand) with the Clerk of the Court using the ECF System which will send notification of such filing to the attorney(s) of record, and I hereby certify that I have emailed the same to Plaintiff.

Respectfully submitted,

OAKLAND COUNTY CORPORATION
COUNSEL

/s/Kyle Heika

Kyle Heika (P78833)
Oakland County Assistant Corporation
Counsel Attorney for Defendants
1200 N. Telegraph Road, Dept. 419
Pontiac, MI 48341-0419

Dated: 4/5/2023